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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 OAKLAND DIVISION

13 UNITED STATES OF AMERICA, ) No. CR 07-00643 DLJ  
14 Plaintiff, )  
15 v. ) STIPULATION AND PROTECTIVE  
CHARLES A. PHILLIPS, ) ORDER REGARDING PRODUCTION OF  
16 ) CONFIDENTIAL DISCOVERY  
17 Defendant. )

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18 Plaintiff, by and through its attorney of record, and defendant, by and through his attorney of  
19 record, hereby stipulate as follows:

20 1. On October 11, 2007, a federal grand jury indicted defendant for distribution of  
21 methamphetamine and maintaining a premises for the distribution of methamphetamine in  
22 violation of Title 21, United States Code, Sections 841(a)(1), and 856, respectively.

23 2. The indictment in this case was based in part on evidence provided by a  
24 confidential informant. Specifically, the informant purchased methamphetamine from the  
25 defendant while wearing a covert audio/video recording device. Defendant has requested  
26 information related to the informant. In order to accommodate defendant's request for this  
27 information while protecting the safety of the informant, the government believes that the  
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STIPULATION AND PROTECTIVE ORDER  
RE CONFIDENTIAL DISCOVERY

proposed protective order is necessary. This protective order will prevent confidential and personal information related to the informant from being disseminated among members of the public, as well as defendant, and his associates or family members. The government believes that the proposed protective order will greatly reduce the possibility that individuals will misuse discovery materials to identify, intimidate, and/or harm the confidential informant and/or the informant's family.

3. Defendant and his counsel agree that no inference should be drawn about defendant's dangerousness because of his agreement to enter into this stipulation.

4. The parties agree that the following conditions, if ordered by the Court pursuant to Federal Rule of Criminal Procedure 16(d)(1), should serve the government's interest in protecting the confidential informant and other members of the community and reducing the risk of retribution taken against the confidential informant and/or the informant's family by precluding the circulation of the confidential information throughout the community and/or the prison system, while permitting the defense to obtain the information. Accordingly, the parties jointly request that the Court order as follows:

a. For purposes of this Order, the term "defense team" refers to: (1) William A. Welch, the counsel of record (including paralegals), for defendant; and (2) defense investigators assisting Mr. Welch with this case. Each member of the defense team must provide the government with a letter indicating that they have read this stipulation and agree to be bound by its terms. For purposes of this Order, the term "defense team" does not include defendant.

b. The government is authorized to provide the defense team with discoverable information related to the informant and shall designate such discovery as "Confidential Discovery" to be governed by the terms of this protective order. The government may designate discoverable documents, items, and materials relating to confidential sources or other individuals who would be in danger if their identities were known, by marking such discovery as "CONFIDENTIAL" and shall produce such discovery in a binder marked "WARNING: CONTENTS SUBJECT TO PROTECTIVE ORDER. UNAUTHORIZED COPYING OR VIEWING IS SUBJECT TO PUNISHMENT AS CONTEMPT OF COURT."

1                   c.         The defense team shall not permit anyone, including defendant, to have  
2 physical possession of Confidential Discovery pursuant to this Order other than members of the  
3 defense team.

4                   d.         The defense team shall not divulge the contents of any Confidential  
5 Discovery provided pursuant to this Order to anyone other than the defendant. The defense team  
6 member may show Confidential Discovery to the defendant in the physical presence of a defense  
7 team member but may not permit the defendant to have physical possession of the Confidential  
8 Discovery.

9                   e.         The defense team shall not permit Confidential Discovery provided  
10 pursuant to this Order to be outside of the defense team's offices, homes, vehicles, or personal  
11 presence.

12                  f.         The defense team shall not reproduce or photocopy the Confidential  
13 Discovery unless that copy or reproduction is to be included in a court filing. In the event that  
14 one of the parties files a pleading that references or contains Confidential Discovery or  
15 information therefrom, that filing must be made under seal. Defendant may not be provided with  
16 a copy of such a filing.

17                  g.         The defense team shall return all Confidential Discovery provided  
18 pursuant to this Order to the government no more than fourteen calendar days after the following  
19 event: dismissal of all charges against defendant; defendant's acquittal by court or jury;  
20 expiration of the time for the filing of a notice of appeal from conviction and/or sentence; or the  
21 conclusion of any direct appeal if one is filed, whichever occurs latest in time. In the event that  
22 the defense team has made notes or marks on the Confidential Discovery constituting work  
23 product the defense team shall return the materials to the government in a sealed container  
24 labeled "WORK PRODUCT-DESTROY."

25                  h.         After the conclusion of proceedings in the district court or any direct  
26 appeal in the above-captioned case ("this case"), the government will maintain a copy of all  
27 Confidential Discovery produced in this case. The government will maintain such documents  
28 until the time period for filing a motion pursuant to 28 U.S.C. § 2255 has expired. After the

1 statutory time period for filing such a motion has expired, the government may destroy the  
2 documents.

3 IT IS SO STIPULATED.

4 DATE: April 4, 2008

Respectfully submitted,

5 JOSEPH P. RUSSONIELLO  
United States Attorney

7 /s/  
GARTH HIRE

8 Assistant United States Attorney

9 Attorneys for Plaintiff  
UNITED STATES OF AMERICA

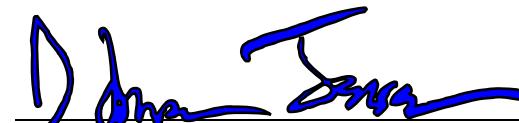
12 /s/  
13 WILLIAM A WELCH, ESQ.

14 Counsel for Charles A. Phillips

15 **ORDER**

16 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED: The government is hereby  
17 authorized, pursuant to Federal Rule of Criminal Procedure 16, to disclose discovery to the  
18 defense and may designate discovery to be governed by this protective order as Confidential  
19 Discovery. The parties are hereby ordered to comply with the conditions set forth in paragraphs  
20 4(a)-(h) of this stipulation and order pursuant to Federal Rule of Criminal Procedure 16(d)(1).

22 DATED: April 8, 2008



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HONORABLE D. LOWELL JENSEN  
UNITED STATES DISTRICT JUDGE

I hereby attest that I have on file all the holograph signatures for any signatures indicated  
by a "conformed" signature (/s/) within this e-filed document.